In re application of	
Barry J. Markwitz, et al.	Group Art Unit: 2857
Serial No. 09/419,475	
Filed: October 15, 1999	Examiner Carol S. W. Tsai
For: GUARD TOUR SYSTEM	Attorney Docket No. 19491

APPEAL BRIEF

Real Party in Interest

The subject application is owned by Timekeeping Systems, Inc. of Cleveland, Ohio.

Related Appeals and Interferences

There are no related appeals or interferences associated with the subject application.

Status of Claims

Applicant has appealed from the final rejection of claims 36 and 37, which are independent claims based on cancelled original dependent claims 26 and 27, respectively.

Claims 30-35 are directed to a non-elected invention, and have been withdrawn from further prosecution. These claims remain in the application pending the filing of a divisional application directed to the inventions thereof.

These claims are the only claims now remaining in the application, since claims 1-9, 11-14, 17-29, and 35 were cancelled by the Amendment After Final Rejection filed March 28, 2003, since claim 10 was cancelled by the Amendment filed October 9, 2002,

and since claims 15 and 16 were cancelled by the Preliminary Amendment filed March 5, 2002.

Status of Amendments

Following the Examiner's final rejection dated December 2, 2002, Applicant filed an Amendment After Final Rejection on March 28, 2003. This Amendment After Final Rejection was entered for purposes of Appeal on May 30, 2003.

Summary of the Invention

The present invention relates to an improved guard tour monitor system including electronic hardware and software for use by patrol guards or officers to monitor desired areas of one or more buildings or property.

As shown simply in Fig. 1, an officer making an inspection or security tour of a facility is provided with a hand-held electronic touch button reader 24. When the officer reaches a given location, he touches the reader to a touch memory button 26 at that location that contains programmed information. This information is read by the touch button reader (Fig. 2), whereupon the officer proceeds with the tour, as shown in Fig. 8.

At the end of the tour, the officer downloads the collected information to a central computer control station 14 (Fig. 1) by the use of a mobile downloader 18 (Figs. 1 and 3), a direct downloader 16 (Figs. 1 and 4), or a modem downloader 22 (Fig. 1). The downloading steps are shown in Fig. 9. Following downloading, the central computer 14 is operable to print reports on the tour as shown in Figs. 10 and 11.

In accordance with a first characterizing feature of the invention recited in claim 36, means 222 (Fig. 10) are provided for setting the date range, appearance of the reports, and filters. "Report appearance options include but are not limited to such items as company logos, cover sheets, photographs, detailed headings, watermarks, bitmaps, drawings, illustrations, trademarks and patrol statistics in reports" (Page 23, lines 15-18).

In accordance with a second characterizing feature of the invention recited in Claim 37, the downloading is effected by an attendant software program, which is run on

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computer 168, as shown in Fig. 9. Thus, the "guard tour application does not have to be running at the time download occurs. This is an advantage over other tour systems because it provides enhanced security" (Page 21, lines 1-4). Referring to Fig. 13, it will be seen that the attendant computer program "provides the communications between the guard tour system application 290 and the external devices 268; i.e., the readers and downloads. The attendant computer program consists of a user interface 280, and several hardware driver files 270-278. Driver files give the attendant computer program the unique ability to download, clear, set time and date, and perform operations with a variety of readers and downloaders" (Page 25, lines 16-20). "The attendant computer program can be set to start when the central computer 14 is started. This makes the attendant computer program available to automatically download readers at all times if the connected devices (downloaders and readers) support the insert defect feature" (Page 26, lines 1-3).

Issues

The issues are whether or not the inventions of claims 36 and 37 are anticipated under 35 U.S.C. 102(e) by the patent to Dividock, et al., No. 6,078,255 (filed June 23, 1998). A more specific issue is whether or not the "statistical analysis of hazards" of the Dividock, et al., patent anticipates the report appearance options afforded by Applicant's invention, namely, the "reports comprising customization selected from the group consisting of logos, cover sheets, photographs, detailed headings, bitmaps, watermarks, illustrations, trademarks, and patrol statistics," as recited in Claim 36. A second specific issue is whether or not the Dividock, et al., patent discloses Applicant's computer readable program means (i.e., the attendant software program means of Figs. 9 and 13) for downloading the gathered information into the data processing system independently of the computer program product, as recited in Claim 37.

Grouping of Claims

Claim 36 stands or falls by itself. Claim 37 stands or falls by itself. The reasons why appellant believes that both Claim 36 and Claim 37 are separately patentable are explained below in the Argument.

Argument

1.   The Section 102(e) Rejection of Claim 36

The Examiner has cited the Dividock, et al., patent in rejecting Claim 36, contending that the reports produced by Dividock, et al., include "customized patrol statistics," corresponding to Applicant's recited customized reports.

Applicant courteously disagrees with the Examiner since the graphics reports of Applicant's system differ completely from the statistical reports of Dividock, et al.

Dividock, et al., discloses in Fig. 8 a system for producing chronological reports (for insurance companies and defense attorneys), exception reports (for program manager, and business management), and management reports (for business management). As stated in the Abstract, lines 20-23, these reports are "for auditing compliance with assigned floor inspection tours and for statistical analysis of hazards." Similarly, on Column 4, lines 56-61, Dividock, et al., states that the reports "can be analyzed statistically to pinpoint problem areas within the business premises, and to identify opportunities to decrease the occurrence of slip-fall hazards."

Applicant's reports, on the other hand, are graphics reports directed to the appearance of the printed material (component 222 of Fig. 10). As described on Page 23, lines 15-18, "report appearance options include but are not limited to such items as company logos, cover sheets, photographs, detailed headings, watermarks, bit maps, drawings, illustrations, trademarks, and patrol statistics on the report." This appearance of the report is a visual appearance of the report material. In the case of "patrol statistics," for example, use is made of a visual presentation, such as a colored bar graph. The Dividock, et al., patent presents no disclosure whatsoever of means for controlling the visual appearance of a report, as recited in Claim 36.

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2. The Section 102 Rejection of Claim 37

The Examiner has cited no specific portion of the Dividock, et al., patent as being anticipatory of Applicant's independently operable attendant software program for downloading the information, as illustrated in Figs. 9 and 13. Rather, the Examiner makes an objection to Claim 37 similar to a rejection under 35 U.S.C. §112, alleging that "'A small independent program that can start automatically and remain active whenever the computer is running' and 'the downloading to be accomplished independent of the complete program product' are not recited in the rejected claim(s). Although the claims are interpreted in the light of the specification, limitations from the specification are not read into the claims."

Applicant courteously disagrees with the Examiner's position in this regard, since element (b) of Claim 37 was drafted to provide Applicant with the patent protection to which it believes itself to be entitled. Claim 37 recites that the downloading software means (i.e., the "attendant software program") operates independently of the main tour guard software program. If the Examiner should care to suggest a more appropriate wording of element (b) of Claim 37, Applicant would be pleased to follow the Examiner's suggestion.

Applicant's attendant program of Figs. 9 and 13 is situated between the data processing software and the various data collection devices, whether they are directly connected downloaders, remotely connected (by modem) downloaders, or other data collection and downloading devices. The attendant is a small, separate, and independent program that handles external devices. It can run by itself or in conjunction with the data processing software. It can detect the presence of data collection devices in their respective downloaders, and allows data to be collected, stored, and processed at a later time by other software. It is a separate, independent part or subset of the software described in the application. It allows Applicant to segregate functions like device monitoring, data downloading, and data storage from data processing and reporting functions. This separation of functionality gives the invention some distinct advantages. A small independent program can start automatically and remain active whenever the

computer is running. This program monitors downloaders, downloads data, and stores it in the computer. It allows these functions without activation of the data processing and reporting software. This approach eliminates the need to start the entire software package each time a device is downloaded, minimizes the use of computer resources, and allows persons without access to or knowledge of the software to download data collection devices. It keeps the data more secure and better utilizes the guards' time. In addition, the attendant program has the ability to automatically detect when a data collector is inserted into a downloader.
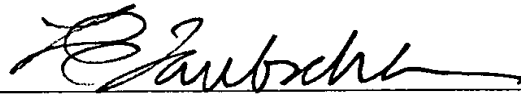
The portions of the specification of the Dividock, et al, patent cited by the Examiner refer to a single program. There is no reference to any separate and independent program that handles detection of, and communication with, external data collection devices. The Examiner refers to Dividock, et al., Fig. 8, which shows no independent software module, separate from the data processing software, to handle communication with, and detection of, external devices. The devices referenced in the Dividock, et al., patent communicate directly, whether by modem, direct connection, or otherwise, to the software that process the data. Furthermore, no section referenced by the Examiner describes graphic images such as describe photographs, illustrations, maps, and the like, being associated with system checkpoints.

Accordingly, for the reasons set forth above, it is believed that the Examiner's final rejection of Claims 36 and 37 was in error, and allowance of these claims is courteously solicited.

The $160 Government fee for submission of the Appeal Brief is submitted herewith. Please charge any additional fees in this matter to my Account No. 12-0605.

Respectfully submitted,

7/8 , 2003

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APPENDIX

The two appealed claims read as follows:

36. A computer program product for use with a data processing system for monitoring and evaluating guard patrols of one or more sites, said computer program product comprising:

    (a)   a computer usable medium including:

        (1)   computer readable program code means embodied in said medium for gathering information obtained from one or more checkpoints during a guard patrol of one or more sites;

        (2)   computer readable program code means embodied in said medium for detecting when said gathered information is ready to be downloaded into said data processing system; and

        (3)   computer readable program code means embodied in said medium for downloading said gathered information into said data processing system; and

    (b)   computer readable program code means for printing one or more reports to a printer of said information obtained from one or more checkpoints during a guard patrol, said reports comprising customization selected from the group consisting of logos, cover sheets, photographs, detailed headings, bitmaps, watermarks, drawings, illustrations, trademarks, and patrol statistics.

37. A computer program product for use with a data processing system for monitoring and evaluating guard patrols of one or more sites, said computer program product comprising:

    (a)   a computer useable medium including:

(1)   computer readable program code means embodied in said medium for gathering information obtained from one or more checkpoints during a guard patrol of one or more sites;

(2)   computer readable program code means embodied in said medium for detecting when said gathered information is ready to be downloaded into said data processing system; and

(3)   computer readable program code means embodied in said medium for downloading said gathered information into said data processing system; and

(b)   computer readable program code means for downloading said gathered information into said data processing system independently of said computer program product.